

EXHIBIT 33

Silverstein, Baron - CONFIDENTIAL

6/4/2010

6/4/2010

74

1 SILVERSTEIN - CONFIDENTIAL
 2 something along those lines?
 3 MR. WHITNEY: Objection, form.
 4 A. No, definitely not. Definitely not,
 5 but I don't recall the reason why I would
 6 otherwise receive it. I know there were
 7 transactions that I would have received it.
 8 **Q. Do you know if Ms. Haggerty received**
 9 **it?**
 10 A. I do not know.
 11 **Q. Was there a group at Bear Stearns or**
 12 **any of its affiliate that had the**
 13 **responsibility for assessing whether or not**
 14 **Bear Stearns was taking excessive risk with**
 15 **respect to any of its securitizations?**
 16 MR. WHITNEY: Objection, form.
 17 A. What do you mean by group?
 18 **Q. Just trying to get a sense of who**
 19 **was responsible for risk management with**
 20 **respect to the Bear Stearns securitizations.**
 21 A. There was a risk group.
 22 **Q. Who was the head of it?**
 23 A. I know that there were multiple
 24 heads, but I believe that was Mike Alex, at
 25 least towards the end, and the person that

75

1 SILVERSTEIN - CONFIDENTIAL
 2 evaluated our risk was Wayne Buchan.
 3 **Q. What processes and protocols, to the**
 4 **best of your knowledge, did he utilize in order**
 5 **to assess your risk?**
 6 MR. WHITNEY: Objection to form.
 7 A. I think you would need to talk to
 8 Wayne Buchan.
 9 **Q. Did he provide you any reports with**
 10 **respect to his conclusions or findings?**
 11 A. He may have on particular
 12 transactions, but I don't recall.
 13 **Q. Did he provide you with any analysis**
 14 **of the potential loss to Bear Stearns as a**
 15 **holder of any residual pieces in the**
 16 **securitizations?**
 17 A. I do not recall.
 18 **Q. Have you ever seen that sort of**
 19 **analysis?**
 20 A. Which analysis are you referring to?
 21 **Q. An analysis of the potential loss to**
 22 **Bear Stearns from holding any residual interest**
 23 **in any of its securitizations.**
 24 A. I do not recall.
 25 **Q. Did you have any interaction with**

76

1 SILVERSTEIN - CONFIDENTIAL
 2 sellers of the mortgage loans that were
 3 securitized through your group in order to
 4 negotiate or persuade the sellers to provide
 5 loans to EMC or Bear Stearns for the
 6 securitizations?
 7 MR. WHITNEY: Objection, form.
 8 A. I had frequent dialogue with
 9 sellers, or otherwise known as mortgage loan
 10 originators, but predominantly, I would talk to
 11 the larger bulk sellers.
 12 **Q. What was the context in which you**
 13 **would be talking with the larger bulk sellers?**
 14 A. I would talk to the larger bulk
 15 sellers in order to negotiate transactions
 16 based upon mutually agreed upon terms.
 17 **Q. So you actually were involved in the**
 18 **negotiation of the acquisition of loans from**
 19 **these sellers; is that correct?**
 20 A. Certain sellers.
 21 **Q. The large bulk sellers in**
 22 **particular?**
 23 A. Yes, but not all large bulk sellers,
 24 and only certain large bulk sellers.
 25 **Q. Which large bulk sellers did you**

77

1 SILVERSTEIN - CONFIDENTIAL
 2 **have a dialogue with?**
 3 A. Wells Fargo, GMAC, Countrywide,
 4 Greenpoint, to name a few.
 5 **Q. Just Mortgage?**
 6 A. Excuse me?
 7 **Q. Just Mortgage?**
 8 A. No.
 9 **Q. American Home?**
 10 A. Yes.
 11 **Q. Impac?**
 12 A. Yes.
 13 **Q. SouthStar?**
 14 A. SouthStar was covered by a lot of
 15 different people and I participated in some of
 16 the discussions.
 17 **Q. Did these large bulk sellers also**
 18 **provide loans to Bear Stearns or EMC through a**
 19 **flow channel?**
 20 A. Every transaction would be
 21 different, and it's possible, depending upon
 22 the asset class or the transaction or the
 23 situation.
 24 **Q. What was your purpose in having a**
 25 **dialogue with these sellers? Were you**

6/4/2010

78

1 SILVERSTEIN - CONFIDENTIAL
 2 attempting to persuade these sellers to sell
 3 your mortgage loans in competition -- was it
 4 your understanding that you were competing
 5 against other purchasers of mortgage loans for
 6 the mortgage loans of the sellers that you
 7 identified?
 8 A. I was aware it was a competitive
 9 marketplace to purchase mortgage loans.
 10 Q. What was it that Bear Stearns did in
 11 order to compete for the loans of these sellers
 12 you identified?
 13 MR. WHITNEY: Objection to form.
 14 A. In what context?
 15 Q. In the context of acquiring loans
 16 for the purposes of your securitizations,
 17 either through the bulk or flow channel.
 18 A. Sellers all had differing
 19 requirements, and, you know, the bulk channel,
 20 in respect to when a seller puts out a
 21 portfolio of loans for a bid, we would
 22 typically -- they would either stipulate the
 23 terms of the transaction up front, for which we
 24 would have to provide our bid in accordance
 25 with or provide any amendments thereto, or we

79

1 SILVERSTEIN - CONFIDENTIAL
 2 would provide our stipulations up front if they
 3 did not provide it as to how we would be
 4 comfortable to purchase a transaction. And
 5 that's typically how these bulk transactions
 6 got done.
 7 At times, depending upon the
 8 institution or the need, we were able to
 9 negotiate flow purchases which would be much
 10 more of a negotiated transaction as opposed to
 11 a much broader bid scenario, where we would
 12 compete against multiple institutions looking
 13 to buy the pool.
 14 Q. Did Bear Stearns ever agree to
 15 reduce the level of due diligence it conducted
 16 on any seller's sales as an accommodation to
 17 compete for the sales?
 18 MR. WHITNEY: Objection to form.
 19 A. Bear Stearns evaluated when bidders
 20 were bidding a portfolio -- could you repeat
 21 the question, please?
 22 Q. Sure. Did Bear Stearns ever agree
 23 to reduce the level of due diligence it
 24 conducted on the seller's loans as an
 25 accommodation to compete for the sales from

80

1 SILVERSTEIN - CONFIDENTIAL
 2 that seller?
 3 MR. WHITNEY: Objection, form.
 4 A. Sellers typically would stipulate
 5 the terms of a portfolio which would include
 6 the due diligence strategy. Bear Stearns would
 7 evaluate the due diligence that was being
 8 stipulated by the seller in order to determine
 9 whether or not we were comfortable to purchase
 10 a pool of mortgage loans based upon that
 11 strategy.
 12 Q. With that said, was it your
 13 understanding that Bear Stearns ever reduced
 14 the level of due diligence it otherwise would
 15 have provided in order to compete for the sales
 16 of a particular originator?
 17 MR. WHITNEY: Objection, form.
 18 A. Bear Stearns would evaluate our due
 19 diligence strategy, depending upon who the
 20 seller was, how the loans were originated and
 21 other parameters of the -- our due diligence
 22 plan, and we would make that determination as
 23 to whether or not we were comfortable with the
 24 due diligence approach as presented to us by
 25 the seller.

81

1 SILVERSTEIN - CONFIDENTIAL
 2 Q. Bear Stearns had certain standards,
 3 typical diligence levels that it applied,
 4 right?
 5 MR. WHITNEY: Objection, form.
 6 A. Bear Stearns' due diligence strategy
 7 continually changed based upon the marketplace,
 8 transactions and sellers. So we did not
 9 accommodate sellers as part of our due
 10 diligence strategy. We evaluated our due
 11 diligence strategy to get comfortable with our
 12 risk.
 13 Q. So you evaluated on a
 14 seller-by-seller basis, and you adjusted the
 15 due diligence that you were willing to accept
 16 for any particular seller based upon what you
 17 viewed as the appropriate considerations for
 18 that seller or for a particular trade; is that
 19 your testimony?
 20 A. Can you repeat the question?
 21 Q. I don't know.
 22 So is it your testimony that Bear
 23 Stearns did not have any set protocols with
 24 respect to the level of due diligence applied,
 25 but rather, negotiated the level of due

6/4/2010

174

1 SILVERSTEIN - CONFIDENTIAL
 2 loans that went into EPD?
 3 MR. WHITNEY: Objection, form.
 4 A. I don't recall.
 5 Q. That's always the safe answer.
 6 MR. WHITNEY: Let me just object to
 7 the comment on the answer.
 8 (Silverstein Exhibit 13, E-mail
 9 chain, Bates stamped EMC-AMB 007011832,
 10 marked for identification.)
 11 MR. WHITNEY: Can I see that one for
 12 a second?
 13 THE WITNESS: (Handing.)
 14 MR. WHITNEY: On my copy, you can't
 15 read the Bates number. I just want to
 16 make sure on the actual exhibit you can.
 17 Q. Before you turn to the exhibit
 18 that's before you, Mr. Silverstein, do you
 19 recall receiving, in the fall, late fall of
 20 2006 and early 2007, defective loan reports
 21 prepared by Mr. Fernando Serrano?
 22 A. No.
 23 Q. Do you recall who Mr. Fernando
 24 Serrano was?
 25 A. I recall the name. I don't recall

175

1 SILVERSTEIN - CONFIDENTIAL
 2 the role.
 3 Q. Do you recall that he was a member
 4 of a securitization breach team that was formed
 5 in late 2006?
 6 MR. WHITNEY: Objection, assumes
 7 facts.
 8 A. No, but if it was, that would be
 9 Steve Golden.
 10 Q. Okay. We will get to this next.
 11 Turning to what's before you that
 12 has been marked as Deposition Exhibit Number
 13 13, it's an e-mail from Mr. John Mongelluzzo to
 14 Mr. Steve Golden and Jo-Karen Whitlock, as the
 15 most current e-mail on the chain, Bates Stamped
 16 EMC-AMB 007011832.
 17 And the second e-mail in the chain
 18 is from John Mongelluzzo, dated March 6, 2007,
 19 more than two years or almost two years after
 20 the prior Mongelluzzo e-mail we looked at about
 21 due diligence.
 22 This one is copying you as well,
 23 Mr. Silverstein. And Mr. Mongelluzzo starts by
 24 saying, "I think we need to completely revamp
 25 how we do diligence." And midway through the

176

1 SILVERSTEIN - CONFIDENTIAL
 2 paragraph he says, and I will read for the
 3 record, "Based on the risk score, we should
 4 determine the type of diligence to be done.
 5 The highest level of risk would get the most
 6 comprehensive review."
 7 Right? Do you see that?
 8 A. Uh-huh.
 9 Q. Do you recall, in March 2007,
 10 Mr. Mongelluzzo reiterating his request, his
 11 plea, his entreaty that Bear Stearns completely
 12 revamp how it does due diligence in order to
 13 rank loans that are being proposed for
 14 acquisition based upon their riskiness and
 15 having the most risky loans subject to the
 16 highest and most comprehensive loan?
 17 MR. WHITNEY: Objection,
 18 mischaracterizes the testimony.
 19 A. This is a proposal from John on how
 20 he was proposing that we would otherwise move
 21 forward to perform diligence.
 22 Q. As a matter of course, did people
 23 disregard Mr. Mongelluzzo's recommendations?
 24 A. Not at all.
 25 Q. In fact, he was the head of due

177

1 SILVERSTEIN - CONFIDENTIAL
 2 diligence to the extent there was anyone in
 3 charge of due diligence at Bear Stearns and
 4 EMC, right?
 5 MR. WHITNEY: Objection, form.
 6 A. John was our due diligence manager
 7 within the mortgage finance group.
 8 Q. And in March of 2007, when he says,
 9 "We need to completely revamp how we do
 10 diligence," did you discuss that with him at
 11 the time?
 12 A. Did I discuss what?
 13 Q. The need to completely revamp how
 14 Bear Stearns does its due diligence.
 15 MR. WHITNEY: Objection, form.
 16 A. These discussions would have been
 17 done as a group to come up with a strategy for
 18 us to re-evaluate our due diligence procedures.
 19 Q. And with respect to an evolutionary
 20 step, at least in the views of John
 21 Mongelluzzo, to completely revamp would have
 22 been a huge magnanimous jump, right?
 23 MR. WHITNEY: Objection, calls for
 24 speculation.
 25 A. You need to talk to John about what

6/4/2010

178

1 SILVERSTEIN - CONFIDENTIAL
 2 he meant in his wording.
 3 Q. Well, I mean, from your perspective,
 4 at the time, was this an incremental Darwinian
 5 creep, or was this a significant change in due
 6 diligence that he is proposing?
 7 A. John -- my recollection of this is
 8 this would be a significant change in our due
 9 diligence approach, not all of which was
 10 implemented.
 11 Q. Well, let's go on to see if anybody
 12 else agreed that this should, in fact, finally
 13 be implemented.
 14 MR. WHITNEY: I just object to that
 15 as not being a question, and just
 16 commenting.
 17 MR. HAAS: It's called a segue.
 18 MR. WHITNEY: I just object to the
 19 segue then.
 20 (Silverstein Exhibit 14, E-mail from
 21 Jeff Verschleiser to Baron Silverstein and
 22 others, dated March 16, 2007, Bates
 23 stamped EMC-AMB 005446615 to 616, marked
 24 for identification.)
 25 Q. We have marked as Deposition Exhibit

180

1 SILVERSTEIN - CONFIDENTIAL
 2 Q. Right. And similarly to
 3 Mr. Mongelluzzo, it involves ranking the loans
 4 based upon a risk profile, correct?
 5 A. Yes.
 6 Q. Okay. To your knowledge, was
 7 Mr. Mongelluzzo's proposal marked as Deposition
 8 Exhibit Number 13 and/or Mr. Verschleiser's
 9 proposal marked as Deposition Exhibit Number 14
 10 implemented?
 11 A. Jeff's proposal on Number 14
 12 referenced a particular transaction. John's
 13 proposal was with respect to kind of our
 14 overall standard. There -- I don't recall what
 15 we ended up with with respect to our updated
 16 and due diligence standards.
 17 Q. Do you know when those updated due
 18 diligence standards went into effect, if ever?
 19 A. No.
 20 Q. Is it, in fact, true that they did
 21 not go into effect in 2007?
 22 A. I don't know, but in 2007, our whole
 23 loan purchase volume decreased significantly,
 24 given market conditions.
 25 (Silverstein Exhibit 15, E-mail

179

1 SILVERSTEIN - CONFIDENTIAL
 2 Number 14 an e-mail from Jeff Verschleiser, the
 3 head chief boss of your area, to you and
 4 others, Bates stamped EMC-AMB 005446615 to 616.
 5 It's dated March 16, 2007, shortly after
 6 Mr. Mongelluzzo's proposal, and not that
 7 Mr. Verschleiser is trying to usurp
 8 Mr. Mongelluzzo's proposal, but it seems he is
 9 proposing a similar tiered approach to due
 10 diligence, right?
 11 MR. WHITNEY: Let me just object to
 12 some of the characterization prior to the
 13 question.
 14 A. (Perusing.) It looks like Jeff is
 15 making a proposal in relation to a portfolio
 16 from New Century.
 17 Q. And his proposal, much akin to
 18 Mr. Mongelluzzo, is that they, Bear Stearns,
 19 assign higher risk scores to certain items in
 20 order to be able to apply greater due diligence
 21 to that, right?
 22 MR. WHITNEY: Object, form.
 23 A. Jeff is making a proposal for a due
 24 diligence standard in relation to this New
 25 Century portfolio.

181

1 SILVERSTEIN - CONFIDENTIAL
 2 chain, Bates stamped EMC-AMB 005469106 to
 3 107, marked for identification.)
 4 Q. We have marked as Deposition Exhibit
 5 Number 15 a chain, the first or most current
 6 e-mail of which is from you, Mr. Silverstein,
 7 dated March 16, 2007, going to Michael
 8 Neirenberg, Jeff Verschleiser, John Mongelluzzo
 9 and Mary Haggerty, the senior management of the
 10 mortgage finance group, and their superiors.
 11 It's Bates Stamped EMC-AMB 005469106 to 107.
 12 It's titled Stated Income Kicks by
 13 Clayton 2006, the first e-mail of which is a
 14 recitation by Mr. Mongelluzzo regarding the
 15 level of unreasonable income kicks found by
 16 Clayton in 2006 based upon total files
 17 reviewed, a mere 310 out of 58,000, in which
 18 Jeff Verschleiser responds, and I will quote
 19 for the record, "We are just burning money
 20 hiring them."
 21 Do you see that?
 22 A. I do.
 23 MR. WHITNEY: Objection to the
 24 characterization of the text.
 25 Q. Did you agree with

6/4/2010

190

1 SILVERSTEIN - CONFIDENTIAL

2 Q. So, in your view, Greenpoint was a

3 solid counterparty for which it made sense to

4 reduce the due diligence sampled from

5 100 percent to a meager 20; is that right?

6 A. In my view, given the performance of

7 what we had purchased in the past in relation

8 to Greenpoint and their HELOCs, which it's

9 referencing to, that's what I said.

10 Q. And, indeed, didn't it turn out that

11 the HELOCs that had previously been purchased

12 and that were put into the BSSLT 2007

13 transaction turned out to be replete with

14 defective loans?

15 MR. WHITNEY: Objection, assumes

16 facts.

17 Q. Did you, in fact, determine that?

18 A. No, I didn't. So I don't have the

19 information.

20 Q. Do you think it was a good decision

21 to reduce the due diligence on Greenpoint in

22 hindsight?

23 MR. WHITNEY: Objection, form.

24 A. I would need to see the basis for my

25 decision.

191

1 SILVERSTEIN - CONFIDENTIAL

2 Q. Sitting here today, in hindsight, do

3 you think it was a good decision?

4 MR. WHITNEY: Objection, form,

5 irrelevant.

6 A. At the point in time, looking in

7 2007, and looking at historical performance on,

8 one, how their HELOCs were performing, and I

9 don't recall, I assume this is a prime

10 portfolio, which could very well be different

11 from other HELOCs that we purchased from them,

12 and their performance with respect to the due

13 diligence reviews that we've done, I made the

14 determination that I felt reducing the sample

15 was sufficient, and if we ended up reducing the

16 due diligence, which I don't know whether or

17 not we did or not, as a factual statement, if

18 that information otherwise would have shown it,

19 I would stand by that.

20 Q. Well, let's look at the historical

21 performance of the loans as of that point in

22 time.

23 (Silverstein Exhibit 18, E-mail

24 chain, Bates stamped EMC-AMB 002935561 to

25 562, marked for identification.)

192

1 SILVERSTEIN - CONFIDENTIAL

2 Q. Take a look at what's been marked as

3 Deposition Exhibit Number 18, which is an

4 e-mail chain, the most current of which is from

5 Michael Cohn to you, dated June 19, 2007, Bates

6 stamped EMC-AMB 002935561 to 562.

7 A. Uh-huh.

8 Q. Now, Mr. Silverstein, what does this

9 e-mail chain concern?

10 A. (Perusing.) It appears to be on

11 Greenpoint EPDs.

12 Q. EPDs and FPDs, correct?

13 A. Yes.

14 Q. And that's early payment default and

15 first payment default, right?

16 A. Correct.

17 Q. Both which are typically viewed as

18 indicators of an inability to pay a loan or a

19 fraud with respect to a loan, suggesting that

20 the loan never should have been granted in the

21 first instance, right?

22 MR. WHITNEY: Objection, form.

23 Q. Isn't that the common industry view

24 of an EPD and FPD?

25 A. That is one way to evaluate it.

193

1 SILVERSTEIN - CONFIDENTIAL

2 Q. So the e-mail chain is basically

3 saying, in hindsight, with respect to

4 historical performance of these Greenpoint

5 loans, that there is a significant number of

6 EPDs and FPDs, and Mr. Verschleiser states,

7 "Big problem," exclamation point.

8 You reply, "Need help. See me," to

9 Mr. Cohn.

10 Who was Mr. Cohn and what was his

11 position at the time?

12 A. Mike Cohn was a data analyst, and he

13 worked in our group.

14 Q. Do you recall this big problem which

15 you needed help from your data analyst?

16 MR. WHITNEY: Objection, form.

17 A. I remember working with Greenpoint

18 on their claims, but I don't remember this

19 e-mail string, or as your -- as it's being

20 described by Jeff Verschleiser as a big

21 problem.

22 So the answer is I don't recall the

23 big problem, but I recall the EPD situation, to

24 some extent, with Greenpoint.

25 Q. And do you recall that you